

July 9, 2020

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OFFERED BY MAYOR HERRIGAN, PRESIDENT SOMMERVILLE, COUNCILWOMAN SAMPLES, COUNCILMAN FUSCO, COUNCILMAN MALIK, COUNCILMAN SWIRSKY, COUNCILMAN LOMBARDO, COUNCILWOMAN BAYLOR, COUNCILWOMAN OMOBIEN

ORDINANCE NO. 214-2020 ordering that all persons in public places within the City of Akron wear a face covering to limit the spread of COVID-19; and declaring an emergency.

WHEREAS, COVID-19 is an infectious disease that causes respiratory illness ranging in severity from moderate illness to death and can be easily spread from person to person; and

WHEREAS, on March 11, 2020, the World Health Organization characterized the global outbreak of COVID-19 as a pandemic and has indicated this is a first-ever pandemic caused by a coronavirus; and

WHEREAS, on March 9, 2020, the Ohio Department of Health announced confirmed cases of COVID-19 in the State of Ohio, creating a dangerous condition that affects the health, safety and welfare of the citizens of Ohio; and

WHEREAS, on March 9, 2020, Governor Mike DeWine declared a state of emergency for the State of Ohio to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19; and

WHEREAS, on March 13, 2020, Mayor Daniel Horrigan declared a state of emergency for the City of Akron due COVID-19 to protect the health, safety and welfare of the City and its residents; and

WHEREAS, on March 22, 2020, under the direction of Ohio Governor, Mike DeWine, Ohio Department of Health Director, Amy Acton, M.D. issued an order requiring all Ohioans to stay in their homes to prevent the further spread of COVID-19 until April 6, 2020 and the order was extended until May 1, 2020 and has been since amended on April 30, May 20 and May 22, 2020, to allow businesses to open with the recommendation that facial coverings be worn except in certain circumstances; and

WHEREAS, Mayor Daniel Horrigan has urged residents to comply with the Ohio Department of Health's Stay at Home orders and recommended social practices to limit community spread in Akron and across the state; and

WHEREAS, there has been evidence of person-to-person and asymptomatic transmission of the virus that causes COVID-19 and, similar to other coronaviruses such as SARS and MERS, it is believed to be spread through droplets of respiratory secretions when an infected person coughs or sneezes; and

WHEREAS, as businesses have re-opened, more people are traveling throughout the state, and within the City of Akron; and

WHEREAS, the CDC recommends wearing face coverings in public to help prevent the spread of COVID-19 from asymptomatic or unknowing carriers to others; and

WHEREAS, Ohio Governor Mike DeWine has mandated face coverings in public areas in certain counties, including Butler County, Cuyahoga County, Franklin County, Hamilton County, Huron County, Montgomery County, and Trumbull County; and

WHEREAS, other Ohio cities, including Bexley, Cincinnati, Cleveland, Columbus, Dayton, Dublin, Grandview Heights, Springfield, Westerville, Whitehall and Yellow Springs have passed ordinances mandating face coverings; and

WHEREAS, the transmission of COVID-19 through community spread remains a significant threat to the health and safety of the Akron community as rates of infection continue to increase despite efforts to control the spread of COVID-19; and

WHEREAS, there is a continuing need to protect all citizens and visitors of the City of Akron from the significant risks related to the COVID-19 pandemic; and

WHEREAS, the requirement that face coverings be worn by any person in a public place within the City of Akron best promotes health, safety, and welfare of the public by reducing the spread of COVID-19 while enabling the continuation of essential services, businesses, and travel necessary to protect public health and safety, and for the continuity of social and commercial life during the state of emergency.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. For the purposes of this ordinance, the following definitions shall apply:

- a. "Face covering" means a piece of cloth, fabric, or other material that fully covers the mouth and nose and that is secured with ear straps or otherwise tied so as to prevent slipping. A face covering may be factory-made or may be handmade and improvised from household materials. Face coverings include, but are not limited to, bandanas, scarfs, medical masks, and cloth masks; and also include respirators, N95 masks or other personal protective equipment that provides a higher level of protection than a face covering defined herein. A face covering shall be worn so as to cover the mouth and nose in compliance with the CDC's guidance on wearing face coverings.
- b. "Place of business" means any facility, building, or structure operated by or for a business engaged in the sale or other transaction of any kind for anything of value in exchange for goods, commodities, services, or temporary lodging and that is open to the general public or by appointment, and includes, but is not limited to, grocery stores, retail stores, pharmacies, health care facilities, restaurants and bars (including outdoor seating for such facilities), hotels and motels (excluding the rented room or suite), gyms and similar facilities; but excluding religious facilities.
- c. "School or school districts" means any public, private, or charter school or institution that provides education for any or all of the following grades or education: kindergarten through twelfth grade; or a university, college, or similar post-secondary institution.

Section 2. All persons within the City of Akron shall wear a face covering over the individual's nose and mouth in accordance with the following:

- a. When entering, exiting, or waiting in line to enter a place of business that is open to the public, and while inside a place of business as to the areas that are accessible to, and are intended for the use of, the public or other patrons/guests.
- b. When entering, exiting, or waiting in line to enter a City of Akron operated building or facility that is open to the public, and while inside a City of Akron operated building or facility as to the areas that are accessible to, and are intended for the use of, the public.
- c. In any public transportation such as a bus or other public transit vehicle, a taxi or ridesharing vehicle or any other vehicle for hire, or at a transit stop or waiting area for any public transportation.
- d. In any outdoor space or outdoor place where or when a person is unable to maintain or does not maintain physical separation of not less than six feet from others who are not members of their own household.
- e. When in common areas of a multi-unit housing building, including, but not limited to, hallways, stairways, elevators, and lobbies.

Section 3. All places of business shall:

- a. Require all employees who interact with the public to wear a face covering.
- b. Only sell or otherwise enter into any transaction of any kind for anything of value in exchange for goods, commodities, services, or accommodations to those who comply with this ordinance at the place of business.

Section 4. The requirement to wear a face covering does not apply in the following situations and/or to the following persons:

- a. Any individual who cannot wear a face covering because of a medical condition, mental health condition or developmental disability, or who is unable to remove the face covering without assistance, and any individual who should not wear face coverings under the CDC guidance. An individual is not required to produce medical documentation of the condition or disability; however, an employer may require such documentation from an employee in accordance with state and federal law.
- b. Children under 10 years old. Any child 2 years old or under must not wear a face covering because of risk of suffocation.
- c. Restaurant and bar patrons or other individuals while eating or drinking whether situated indoors or outdoors. A face covering is not required to be worn in bars and restaurants when individuals are seated at their own table or seat at the bar, but is required when moving about the facility.

- d. Any person, including students, administrators, and teachers, is exempt from this order while in a school or school district facility. Individuals in school or school district facilities shall comply with the regulations and guidelines promulgated by that school and school district governing body and the Ohio Department of Education.
- e. In settings where it is not practicable or feasible to wear a face covering such as when receiving dental services, medical treatments, or while swimming.
- f. Where facial coverings are prohibited by law or regulation or would violate established employment practices, documented industry standards, or a business's documented safety policies.
- g. Walking or exercising outdoors so long as physical separation of not less than six feet is maintained, or while walking or exercising outdoors with other members of the same household.
- h. While actually engaged in exercising in a gym or other similar indoor facility so long as physical separation of not less than six feet is maintained and the individual wears a face covering at all times when not actually engaged in exercising.
- i. When an individual is alone in his or her work office, conference room, or other personal workspace not intended for use by the general public.
- j. When inside a personal or commercial vehicle either parked or moving that is not a vehicle described in Section 2(c).
- k. Individuals while acting in their official capacity as a public safety employee or emergency responder when wearing a face covering would interfere with or limit their ability to carry out their official duties or functions. These include peace officers, firefighters, and other public safety or emergency medical personnel that support public safety operations.
- l. Individuals complying with the directions of public safety employees or emergency responders as described in 4(k).
- m. Individuals whose sincerely held religious beliefs, as defined under state law, would be substantially burdened by the requirement to wear a face covering.
- n. Any exception enumerated in an Ohio Department of Health Director's Order that is applicable to the City of Akron.

Section 5. Enforcement of this ordinance shall focus first on educating on the dangers of community spread of COVID-19 and promoting compliance with the requirements of this ordinance to mitigate the spread of COVID-19.

Any individual or business violating the provisions of this ordinance may first be notified of this ordinance and given an opportunity to comply before enforcement action is taken. After such notification and opportunity to comply, any individual who violates this ordinance may be subject to a civil penalty of not more than \$50 per violation.

After notification and opportunity to comply, any business, including a manager, owner, or person in charge of the place of business, that violates the provisions of Section 3 of this ordinance may be subject to a civil penalty of not more than \$250 per violation.

Section 6. The provisions of this ordinance shall be liberally construed to encourage the wearing of face coverings except in situations where doing so presents a direct risk to personal health or safety.

Section 7. Notwithstanding any other provision, authority to enforce this ordinance, including issuing penalties, shall rest with the Summit County Combined General Health District pursuant to ORC 3709.281. Penalties shall only be issued under this ordinance following the execution of a written agreement between the City and the Summit County Combined General Health District granting authority to issue such penalties.

Section 8. This ordinance is not intended to infringe upon a person's First Amendment Rights, including the right to peacefully protest.

Section 9. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that facial coverings are necessary to protect the residents of and visitors to Akron from further spread of COVID-19, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed July 13, 2020

Dana R. Biviano, Deputy Mayor Sumner
Clerk of Council President of Council

Approved _____, 2020

MAYOR

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AKRON CITY COUNCIL